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FROM : Oleg F. Kaplun, Esq.
Fay Kaplun & Marcin, LLP

DATE : March 17, 2006

SUBJECT : U.S. Patent Appln. Serial No. 09/887,150
for *Touch Pad that Confirms its Security*
Inventor(s): Fernando et al.
Our Ref.: 40116/06201

NUMBER OF PAGES INCLUDING COVER : 14

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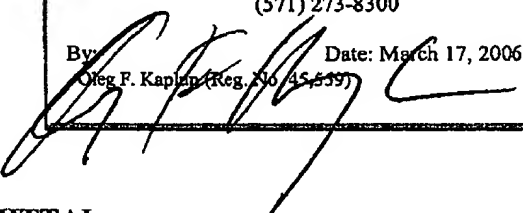
[40116/06201]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Fernando et al.
Serial No. : 09/887,150
Filed : June 21, 2001
For : Touch Pad That Confirms Its Security
Group Art Unit : 2131
Examiner : Shin Hon Chen

Mail Stop: Appeal Brief-Patent
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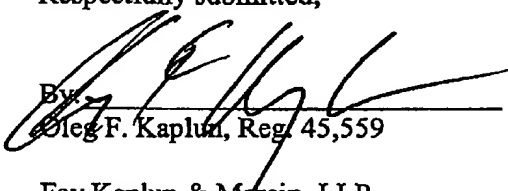
By:  Date: March 17, 2006
Oleg F. Kaplun (Reg. No. 45,559)

TRANSMITTAL

Transmitted herewith please find a Reply Brief in response to the Examiner's Answer mailed on January 17, 2006 for filing in the above-identified application. No fees are believed to be required. The Commissioner is hereby authorized to charge any additional required fees to the Deposit Account of Fay Kaplun & Marcin, LLP No. 50-1492. A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: March 17, 2006

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Oleg F. Kaplun, Reg. 45,559

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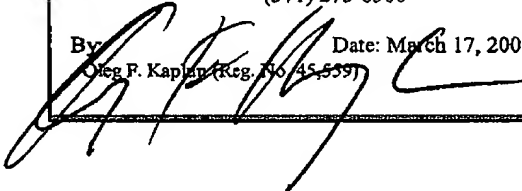
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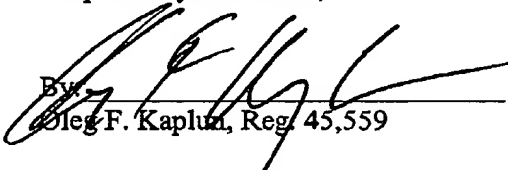
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REPLY BRIEF UNDER 37 C.F.R. § 41.41

In response to the Examiner's Answer mailed on January 17, 2006 to the Appeal Brief filed October 3, 2005, and pursuant to 37 C.F.R. § 41.41, appellant presents in triplicate this reply brief in the above-captioned application.

This is an appeal to the BPAI from the Examiner's final rejection of claims 1-6 in the final Office Action dated April 14, 2005 as clarified in the Advisory Action mailed June 30, 2005 and further clarified in the Examiner's Answer mailed January 17, 2006. The appealed claims are set forth in the attached Claims Appendix.

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1. Grounds of Rejection to be Reviewed on Appeal

- I. Whether claims 1-4 and 6 are unpatentable under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,317,835 to Bilger et al. ("the Bilger patent").
- II. Whether claim 5 is unpatentable under 35 U.S.C. § 103(a) as obvious over the Bilger patent in view of U.S. Patent No. 6,715,078 to Chasko et al. ("the Chasko patent").

2. Argument

- I. The Rejection of Claims 1-4 and 6 Under 35 U.S.C. § 102(e) as Being Obvious Over U.S. Patent No. 6,317,835 to Bilger et al. Should Be Reversed.

In the Examiner's Answer, the Examiner maintained that the Bilger patent shows a data-entry apparatus having a display for displaying information confirming the security of the data-entry apparatus.

Claim 1 recites a data-entry apparatus comprising "a device for entering data" and "a display for displaying information confirming the security of the data-entry apparatus" in combination with "an encryption circuit, communicatively coupled to the data-entry device and the display."

While both the present invention and the system described by the Bilger patent use encryption to ensure that communication between a data-entry apparatus and a recipient of PIN

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information (e.g., a financial institution) is secure, the system of the Bilger patent markedly differs from the present invention in that it does not check to make sure that communication *between a user and the data-entry apparatus* is secure and then *relay this information* to the user. As recited in claim 1, "a display for displaying information confirming the security of the data-entry apparatus" and "an encryption circuit, communicatively coupled to the data-entry device and the display." As would be known to one skilled in the art, user input is unencrypted when the user enters the information, which is only encrypted prior to transmitting the information to the recipient. The present invention uses a Virtual Pin Pad routine (VPPR) to ensure that the information arrives at the data-entry apparatus securely, then displays a security icon to let the user know that it is safe to input the information. In contrast, the Bilger patent assumes that if the data-entry apparatus is capable of allowing the user to input the information, then it must be secure. The Bilger patent does not teach or suggest such a confirmation to the user.

In the Answer, the Examiner states that the Bilger patent shows a PIN entry device (PED) having a clear mode and an encrypted mode of operation, and that the PED allows users to confirm that the device is ready to take confidential data because the PIN pad is only displayed when the device is in PIN (i.e., encrypted) mode. *Examiner's Answer*, p. 4. Appellants respectfully disagree with the Examiner's view of the teaching of Bilger. The Bilger patent states that after a user makes a choice that requires insertion of a PIN, the touch screen displays a PIN pad and the PED goes from a non-encrypted clear mode to an encrypted PIN mode. *Bilger*, col. 6, lines 37-44. The Examiner states that the user knows the PED is in the encrypted mode when

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the PIN pad is displayed. *Examiner's Answer*, p. 6. However, it is respectfully submitted that the display of the PIN pad is not a positive confirmation of the security of the PED. A user of PEDs and other devices in which sensitive information is entered expects that the information can be entered in a secure manner. In the absence of a positive confirmation of the security of the device, the user assumes that the device is secure. Such is the case with the PED described by the Bilger patent. The user sees the PIN pad displayed, but does not receive a confirmation that the PED is secure. Without knowing that the encrypted mode exists, the user has no choice but to either refuse PIN entry or assume the PED is secure and proceed with entering the PIN.

In addition, even if the user were aware that the encrypted mode exists, the mere displaying of the PIN pad is insufficient to indicate, by itself, that the PED has entered the encrypted mode successfully. The Examiner asserts that because the system described by the Bilger patent "ensures that no fraudulent content is introduced and the operation mode[s] are properly executed...the user can be assured that the device is in secure mode upon display of [the] PIN pad." *Examiner's Answer*, p. 7. However, the system described by the Bilger patent cannot guarantee security. Various security methods are described for reducing security risks. These methods consist of using a cryptographically secure upgrade communication channel to load content onto the system, and periodic review of system integrity. *Bilger*, col. 7, lines 14-46. These security methods are insufficient to guarantee security because they do not constitute an active check to ensure that the system has not been compromised. Unlike the system of the present invention, the Bilger patent does not perform a security check each time the PIN pad is

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displayed. Thus, there is a potential for compromised security prior to displaying the PIN pad and the mere displaying of the PIN pad cannot be relied upon as an indication that the system is secure. Thus, Appellants respectfully maintain that the Bilger patent does not disclose or suggest "a display for displaying information confirming the security of the data-entry apparatus," as recited in claim 1. Because claims 2-4 depend from, and, therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 6 recites substantially similar limitations as claim 1 including "refraining from displaying information asserting a data-entry device's ability to securely receive data" and "displaying information asserting the data-entry device's ability to securely receive data." Thus, Appellants respectfully submit that claim 6 is allowable at least for the reasons discussed above with reference to claim 1.

Therefore, Appellant respectfully requests that the Board withdraw the rejections of claims 1-4 and 6 under § 102 and find these claims in condition for allowance.

II. The Rejection of Claim 5 Under 35 U.S.C. § 103(a) as Being Obvious Over Bilger in view of U.S. Patent No. 6,715,078 to Chasko et al. Should Be Reversed.

Claim 5 depends from, and, therefore includes all of the limitations of claim 1, which has been discussed above. Appellants respectfully submit that the Chasko patent does not cure the above-described deficiencies of the Bilger patent. Thus, it is respectfully submitted that neither the Bilger patent nor the Chasko patent, either alone or in combination, discloses or

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suggests "a display for displaying information confirming the security of the data-entry apparatus," as recited in claim 1. Because claim 5 depends therefrom, it is respectfully submitted that claim 5 is allowable and that the rejection under § 103 should be withdrawn.

Therefore, at least for these reasons and the reasons in the previously filed Appeal Brief, it is respectfully submitted that all of the presently pending claims are allowable. Appellants respectfully request that the Board overturn the Examiner's rejection of these claims.

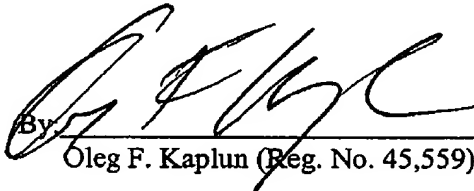
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3. Conclusions

For the reasons set forth above, the appellants respectfully request that the Board reverse the final rejections of claims 1-6 by the Examiner under 35 U.S.C. § 102 and § 103, and indicate that these claims are allowable.

Respectfully submitted,

Date: March 17, 2006


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CLAIMS APPENDIX

1. A data-entry apparatus comprising:
 - a device for entering data;
 - a display for displaying information confirming the security of the data-entry apparatus; and
 - an encryption circuit, communicatively coupled to the data-entry device and the display.
2. The data-entry apparatus of claim 1, wherein the device for entering data comprises a touch pad.
3. The apparatus of claim 1, further comprising a second display, and wherein the first and second displays are physically separate.
4. The apparatus of claim 1, further comprising a second display, and wherein the first and second displays are under the control of respective first and second controllers that in turn are communicatively coupled to and under the control of the encryption circuit.
5. The apparatus of claim 1, wherein the displayed information comprises an icon.

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6. A method for accepting data on a data-entry apparatus, the method comprising:
 - refraining from displaying information asserting a data-entry devices's ability to securely receive data;
 - then preparing to encrypt data received on the data-entry device;
 - then displaying information asserting the data-entry device's ability to securely receive data.

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EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

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RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.

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